



STATE OF INDIANA

ERIC J. HOLCOMB, Governor

**PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)234-0906
Fax: (317)233-3091
Toll Free: 1-800-228-6013
Email: pac@in.gov/opac
Website: www.IN.gov/pac

OPINION OF THE PUBLIC ACCESS COUNSELOR

Richard A. Wolf)	
)	
Complainant)	
)	
v.)	16-FC-304
)	
Indiana Department of Homeland Security)	
)	
Respondent)	

ADVISORY OPINION January 20, 2017

This advisory opinion is in response to the formal complaint alleging Indiana Department of Homeland Security (“DHS”) violated the Access to Public Records Act (“APRA”), Indiana Code Indiana Code § 5-14-1.5-1 et. seq. DHS has responded via Ms. Pamela Walters, Esq., Staff Attorney. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on December 7, 2016.

BACKGROUND

On November 3, 2016, complainant sent email correspondence to the State Fire Marshal expressing concern about the accessibility at the Elkhart County Building in Goshen. Complainant received a response by the Secretary of the Code Enforcement Office, who asked for more specifics. Multiple email communications were exchanged between complainant, the secretary and the Fire Marshal.

On November 26, 2016, Complainant asked for information in regards to building inspections and if they had occurred. Complainant then received a response from the Fire Marshal stating the



STATE OF INDIANA

ERIC J. HOLCOMB, Governor

**PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)234-0906
Fax: (317)233-3091
Toll Free: 1-800-228-6013
Email: pac@in.gov/opac
Website: www.IN.gov/pac

secretary would get back to him the following week. Complainant did not receive any correspondence after November 26, 2016. Complainant filed formal complaint on December 7, 2016.

The Indiana Department of Homeland Security has responded stating the formal complaint was prematurely filed, as there was no request for records.

ANALYSIS

The public policy of the APRA states that “(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” *See Indiana Code § 5-14-3-1*. The Indiana Department of Homeland Security is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)*. Accordingly, any person has the right to inspect and copy the DHS’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

It appears the Complainant did not make a formal records request at any time during the email communication, but rather a general request for information. A valid public records request must state which records are being sought with “reasonable particularity”. *See Indiana Code § 5-14-3-3*. Although reasonable particularity is not defined in Indiana Code, it must meet a subjective standard of specificity. Based on the information provided, it appears as if a particular document was not sought, but rather an answer to a request for information.

Complainant has not made a records request, but was a part of an ongoing dialogue related to a file complaint with the office about inspections. DHS has attached a copy of the most recent inspection report completed for Complainant’s inquires. I do suggest that in the future, the Complainant submit a formal records request which identifies the particular record sought.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Indiana Department of Homeland Security did not violate the Access to Public Records Act.



STATE OF INDIANA

ERIC J. HOLCOMB, Governor

**PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)234-0906
Fax: (317)233-3091
Toll Free: 1-800-228-6013
Email: pac@in.gov/opac
Website: www.IN.gov/pac

A handwritten signature in black ink, appearing to read "LH Britt", written in a cursive style.

Luke H. Britt
Public Access Counselor

Distribution:

Ms. Pamela M. Walters, Esq.